

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 130

SENATE BILL 1043

AN ACT

AMENDING SECTIONS 43-1021, 43-1022, 43-1029, 43-1071, 43-1121, 43-1127, 43-1301 AND 43-1311, ARIZONA REVISED STATUTES; REPEALING SECTIONS 43-1312 AND 43-1313, ARIZONA REVISED STATUTES; AMENDING SECTIONS 43-1315, 43-1331 AND 43-1332, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 13, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 43-1333; REPEALING TITLE 43, CHAPTER 13, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING SECTION 43-1364, ARIZONA REVISED STATUTES; AMENDING TITLE 43, CHAPTER 13, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 43-1365 AND 43-1366; AMENDING SECTION 43-1381, ARIZONA REVISED STATUTES; RELATING TO TAXATION OF ESTATES AND TRUSTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1021, Arizona Revised Statutes, is amended to
3 read:

4 43-1021. Additions to Arizona gross income

5 In computing Arizona adjusted gross income, the following amounts shall
6 be added to Arizona gross income:

7 ~~1. A beneficiary's share of trust or estate income includible under~~
8 ~~section 43-1344 THE FIDUCIARY ADJUSTMENT TO THE EXTENT THAT THE AMOUNT~~
9 ~~DETERMINED BY SECTION 43-1333 INCREASES THE BENEFICIARY'S ARIZONA GROSS~~
10 ~~INCOME.~~

11 ~~2. A beneficiary's share of trust or estate deductions allowable under~~
12 ~~the internal revenue code.~~

13 ~~3.~~ 2. An amount equal to the "ordinary income portion" of a lump sum
14 distribution that was excluded from federal adjusted gross income pursuant
15 to section 402(d) of the internal revenue code.

16 ~~4.~~ 3. The amount of interest income received on obligations of any
17 state, territory or possession of the United States, or any political
18 subdivision thereof, located outside the state of Arizona, reduced, for tax
19 years beginning from and after December 31, 1996, by the amount of any
20 interest on indebtedness and other related expenses that were incurred or
21 continued to purchase or carry those obligations and that are not otherwise
22 deducted or subtracted in arriving at Arizona gross income.

23 ~~5.~~ 4. Annuity income received during the taxable year to the extent
24 that the sum of the proceeds received from such annuity in all taxable years
25 prior to and including the current taxable year exceeds the total
26 consideration and premiums paid by the taxpayer. This paragraph applies only
27 to those annuities with respect to which the first payment was received prior
28 to December 31, 1978.

29 ~~6.~~ 5. The excess of a partner's share of partnership taxable income
30 required to be included under chapter 14, article 2 of this title over the
31 income required to be reported under section 702(a)(8) of the internal
32 revenue code.

33 ~~7.~~ 6. The excess of a partner's share of partnership losses
34 determined pursuant to section 702(a)(8) of the internal revenue code over
35 the losses allowable under chapter 14, article 2 of this title.

36 ~~8.~~ 7. The amount by which the adjusted basis of property described
37 in this paragraph and computed pursuant to the internal revenue code exceeds
38 the adjusted basis of such property computed pursuant to this title and the
39 income tax act of 1954, as amended. This paragraph shall apply to all
40 property which is held for the production of income and which is sold or
41 otherwise disposed of during the taxable year, except depreciable property
42 used in a trade or business.

43 ~~9.~~ 8. The amount of depreciation or amortization of costs of any
44 capital investment that is deducted pursuant to section 167 or 179 of the

1 internal revenue code by a qualified defense contractor with respect to which
2 an election is made to amortize pursuant to section 43-1024.

3 ~~10.~~ 9. The amount of gain from the sale or other disposition of a
4 capital investment which a qualified defense contractor has elected to
5 amortize pursuant to section 43-1024.

6 ~~11.~~ 10. The amount of depreciation or amortization of costs of child
7 care facilities deducted pursuant to section 167 or 188 of the internal
8 revenue code for which a credit is taken under section 43-1075, subsection
9 A, paragraph 1.

10 ~~12.~~ 11. Amounts withdrawn from the Arizona state retirement system,
11 the corrections officer retirement plan, the public safety personnel
12 retirement system, the elected officials' retirement plan or a county or city
13 retirement plan by an employee upon termination of employment before
14 retirement to the extent they were deducted in arriving at Arizona taxable
15 income in any year.

16 ~~13.~~ 12. That portion of the net operating loss included in federal
17 adjusted gross income which has already been taken as a net operating loss
18 for Arizona purposes or which is separately taken as a subtraction under the
19 special net operating loss transition rule.

20 ~~14.~~ 13. Any nonitemized amount deducted pursuant to section 170 of the
21 internal revenue code representing contributions to an educational
22 institution which denies admission, enrollment or board and room
23 accommodations on the basis of race, color or ethnic background except those
24 institutions primarily established for the education of American Indians.

25 ~~15.~~ 14. The amount of depreciation or amortization of costs of
26 recycling equipment deducted pursuant to the internal revenue code for which
27 an election is made pursuant to section 43-1076.

28 ~~16.~~ 15. The amount paid as taxes on property in this state with
29 respect to which a credit is claimed under section 43-1078.

30 ~~17.~~ 16. Amounts withdrawn from a medical savings account by the
31 individual during the taxable year computed pursuant to section 220(f) of the
32 internal revenue code and not included in federal adjusted gross income.

33 ~~18.~~ 17. Any amount of agricultural water conservation expenses that
34 were deducted pursuant to the internal revenue code for which a credit is
35 claimed under section 43-1084.

36 ~~19.~~ 18. The amount by which the depreciation or amortization computed
37 under the internal revenue code with respect to property for which a credit
38 was taken under section 43-1080 exceeds the amount of depreciation or
39 amortization computed pursuant to the internal revenue code on the Arizona
40 adjusted basis of the property.

41 ~~20.~~ 19. The amount by which the adjusted basis computed under the
42 internal revenue code with respect to property for which a credit was claimed
43 under section 43-1080 and which is sold or otherwise disposed of during the
44 taxable year exceeds the adjusted basis of the property computed under
45 section 43-1080.

~~21.~~ 20. The amount by which the depreciation or amortization computed under the internal revenue code with respect to property for which a credit was taken under either section 43-1081 or 43-1081.01 exceeds the amount of depreciation or amortization computed pursuant to the internal revenue code on the Arizona adjusted basis of the property.

~~22.~~ 21. The amount by which the adjusted basis computed under the internal revenue code with respect to property for which a credit was claimed under either section 43-1081 or 43-1081.01 and which is sold or otherwise disposed of during the taxable year exceeds the adjusted basis of the property computed under section 43-1081 or 43-1081.01, as applicable.

~~23.~~ 22. The deduction referred to in section 1341(a)(4) of the internal revenue code for restoration of a substantial amount held under a claim of right.

~~24.~~ 23. The amount by which a net operating loss carryover or capital loss carryover allowable pursuant to section 1341(b)(5) of the internal revenue code exceeds the net operating loss carryover or capital loss carryover allowable pursuant to section 43-1029, subsection F.

~~25.~~ 24. Any amount deducted pursuant to section 170 of the internal revenue code representing contributions to a school tuition organization or a public school for which a credit is claimed under section 43-1089 or 43-1089.01.

~~26.~~ 25. Any amount deducted in computing Arizona gross income as expenses for installing solar stub outs or electric vehicle recharge outlets in this state with respect to which a credit is claimed pursuant to section 43-1090.

~~27.~~ 26. Any wage expenses deducted pursuant to the internal revenue code for which a credit is claimed under section 43-1087 and representing net increases in qualified employment positions for employment of temporary assistance for needy families recipients.

~~28.~~ 27. Any amount deducted pursuant to section 170 of the internal revenue code representing the contribution of a motor vehicle for which a credit is claimed pursuant to section 43-1090.01.

~~29.~~ 28. Any amount deducted for conveying ownership or development rights of property to an agricultural preservation district under section 48-5702 for which a credit is claimed under section 43-1081.02.

Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:
43-1022. Subtractions from Arizona gross income

In computing Arizona adjusted gross income, the following amounts shall be subtracted from Arizona gross income:

1. The amount of exemptions allowed by section 43-1023.

2. Benefits, annuities and pensions in an amount totaling not more than two thousand five hundred dollars received from one or more of the following:

(a) The United States government service retirement and disability fund, retired or retainer pay of the uniformed services of the United States,

1 the United States foreign service retirement and disability system and any
2 other retirement system or plan established by federal law.

3 (b) The ARIZONA state retirement system, ~~the state retirement plan,~~
4 the corrections officer retirement plan, the public safety personnel
5 retirement system, the elected officials' retirement plan, an optional
6 retirement program established by the Arizona board of regents under section
7 15-1628, an optional retirement program established by a community college
8 district board under section 15-1451, or a retirement plan established for
9 employees of a county, city or town in this state.

10 3. A beneficiary's share of trust or estate income recognized pursuant
11 to the internal revenue code THE FIDUCIARY ADJUSTMENT TO THE EXTENT THAT THE
12 AMOUNT DETERMINED BY SECTION 43-1333 DECREASES THE BENEFICIARY'S ARIZONA
13 GROSS INCOME.

14 4. The amount of any distributions from an individual retirement
15 account as provided for in section 408 of the internal revenue code or from
16 a qualified retirement plan of a self-employed individual as provided for in
17 section 401 of the internal revenue code to the extent that total adjustments
18 made pursuant to this paragraph in all tax years do not exceed the total of
19 all contributions made by the taxpayer to such plans prior to December 31,
20 1975, which were included in computing Arizona taxable income.

21 5. The amount of income on an installment receivable which is
22 recognized pursuant to the internal revenue code and which has already been
23 recognized on the death of the taxpayer for purposes of this title for tax
24 years ending before January 1, 1990.

25 6. Interest income received on obligations of the United States, less
26 any interest on indebtedness, or other related expenses, and deducted in
27 arriving at Arizona gross income, which were incurred or continued to
28 purchase or carry such obligations.

29 7. The amount of any income tax refunds which were received from
30 states other than Arizona and which were included as income in computing
31 federal adjusted gross income.

32 8. Annuity income included in federal adjusted gross income pursuant
33 to section 72 of the internal revenue code if the first payment with respect
34 to such annuity was received prior to December 31, 1978.

35 9. The excess of a partner's share of income required to be included
36 under section 702(a)(8) of the internal revenue code over the income required
37 to be included under chapter 14, article 2 of this title.

38 10. The excess of a partner's share of partnership losses determined
39 pursuant to chapter 14, article 2 of this title over the losses allowable
40 under section 702(a)(8) of the internal revenue code.

41 11. The amount by which the adjusted basis of property described in
42 this paragraph and computed pursuant to this title and the income tax act of
43 1954, as amended, exceeds the adjusted basis of such property computed
44 pursuant to the internal revenue code. This paragraph shall apply to all
45 property which is held for the production of income and which is sold or

1 otherwise disposed of during the taxable year other than depreciable property
2 used in a trade or business.

3 12. The amount allowed by section 43-1024 for amortization, by a
4 qualified defense contractor certified by the department of commerce under
5 section 41-1508, of a capital investment for private commercial activities.

6 13. The amount of gain included in federal adjusted gross income on the
7 sale or other disposition of a capital investment that a qualified defense
8 contractor has elected to amortize pursuant to section 43-1024.

9 14. The amount allowed by section 43-1025 for contributions during the
10 taxable year of agricultural crops to charitable organizations.

11 15. The portion of any wages or salaries paid or incurred by the
12 taxpayer for the taxable year that is equal to the amount of the federal work
13 opportunity credit, the empowerment zone employment credit, the credit for
14 employer paid social security taxes on employee cash tips and the Indian
15 employment credit that the taxpayer received under sections 45A, 45B, 51(a)
16 and 1396 of the internal revenue code.

17 16. The amount of prizes or winnings less than five thousand dollars
18 in a single taxable year from any of the state lotteries established and
19 operated pursuant to title 5, chapter 5, article 1, except that all such
20 winnings before March 22, 1983, including periodic distributions from such
21 winnings made after March 22, 1983, may be subtracted.

22 17. The amount of exploration expenses that is determined pursuant to
23 section 617 of the internal revenue code, that has been deferred in a taxable
24 year ending before January 1, 1990 and for which a subtraction has not
25 previously been made. The subtraction shall be made on a ratable basis as
26 the units of produced ores or minerals discovered or explored as a result of
27 this exploration are sold.

28 18. The amount included in federal adjusted gross income pursuant to
29 section 86 of the internal revenue code, relating to taxation of social
30 security and railroad retirement benefits.

31 19. To the extent not already excluded from Arizona gross income under
32 section 112 of the internal revenue code, compensation received for active
33 service as a member of the armed forces of the United States for any month
34 during any part of which the member served in a combat zone as determined
35 under section 112 of the internal revenue code or in an area given the same
36 treatment as a combat zone for purposes of section 112 of the internal
37 revenue code.

38 20. The amount of unreimbursed medical and hospital costs, adoption
39 counseling, legal and agency fees and other nonrecurring costs of adoption
40 not to exceed three thousand dollars. In the case of a husband and wife who
41 file separate returns, the subtraction may be taken by either taxpayer or may
42 be divided between them, but the total subtractions allowed both husband and
43 wife shall not exceed three thousand dollars. The subtraction under this
44 paragraph may be taken for the costs that are described in this paragraph and

1 that are incurred in prior years, but the subtraction may be taken only in
2 the year during which the final adoption order is granted.

3 21. The amount authorized by section 43-1027 for the taxable year
4 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

5 22. With respect to a medical savings account established pursuant to
6 section 43-1028:

7 (a) An eligible individual may subtract:

8 (i) The amount of contributions made by the individual's employer
9 during the taxable year to the individual's medical savings account pursuant
10 to section 43-1028 to the extent that the employer contributions are included
11 in the individual's federal adjusted gross income.

12 (ii) The amount deposited by the individual in the account during the
13 taxable year to the extent that the individual's contributions are included
14 in the individual's federal adjusted gross income.

15 (b) The individual's employer may subtract the amount of contributions
16 made by the employer to a medical savings account established on the
17 individual's behalf to the extent that the contributions are not deductible
18 under the internal revenue code.

19 23. The amount by which a net operating loss carryover or capital loss
20 carryover allowable pursuant to section 43-1029, subsection F exceeds the net
21 operating loss carryover or capital loss carryover allowable pursuant to
22 section 1341(b)(5) of the internal revenue code.

23 24. Any amount of qualified educational expenses that is distributed
24 from a qualified state tuition program determined pursuant to section 529 of
25 the internal revenue code and that is included in income in computing federal
26 adjusted gross income.

27 25. Any item of income resulting from an installment sale that has been
28 properly subjected to income tax in another state in a previous taxable year
29 and that is included in Arizona gross income in the current taxable year.

30 26. The amount authorized by section 43-1030 relating to holocaust
31 survivors.

32 27. The amount authorized by section 43-1031 for constructing an energy
33 efficient residence.

34 Sec. 3. Section 43-1029, Arizona Revised Statutes, is amended to read:

35 43-1029. Restoration of a substantial amount held under claim
36 of right; computation of tax

37 A. This section applies if:

38 1. An item of income was included in gross income for a prior taxable
39 year or years because it appeared that the taxpayer had an unrestricted right
40 to the item.

41 2. A deduction would be allowable under the internal revenue code or
42 this title for the taxable year, without application of section 1341(b)(3)
43 of the internal revenue code or section 43-1021, paragraph 23 22, because
44 after the close of the prior taxable year or years it was established that
45 the taxpayer did not have an unrestricted right to all or part of the item.

1 3. The amount of the deduction exceeds three thousand dollars.

2 B. If all of the conditions in subsection A of this section apply, the
3 tax imposed by this chapter for the taxable year is an amount equal to the
4 tax for the taxable year computed without the deduction, minus the decrease
5 in tax under this chapter for the prior taxable year or years that would
6 result solely from excluding the item or portion of the item from gross
7 income for the prior taxable year or years.

8 C. If the decrease in tax exceeds the tax imposed by this chapter for
9 the taxable year, computed without the deduction, the excess is considered
10 to be a payment of tax on the last day prescribed by law for the payment of
11 tax for the taxable year and shall be refunded or credited in the same manner
12 as if it were an overpayment for the taxable year.

13 D. Subsection B of this section does not apply to any deduction that
14 is allowable with respect to an item that was included in gross income by
15 reason of the sale or other disposition of stock in trade of the taxpayer,
16 or other property of a kind that would properly have been included in the
17 inventory of the taxpayer on hand at the close of the prior taxable year, or
18 property that is held by the taxpayer primarily for sale to customers in the
19 ordinary course of the taxpayer's trade or business. This subsection does
20 not apply if the deduction arises out of refunds or repayments with respect
21 to rates made by a regulated public utility that is listed in section
22 7701(a)(33)(A) through (H) of the internal revenue code, if the refunds or
23 repayments are:

24 1. Required to be made by the government, political subdivision,
25 agency or instrumentality referred to in that section.

26 2. Required to be made by an order of a court.

27 3. Made in settlement of litigation or under threat or imminence of
28 litigation.

29 E. If the exclusion under subsection B of this section results in:

30 1. A net operating loss for the prior taxable year or years for
31 purposes of computing the decrease in tax for the prior year or years under
32 subsection B of this section:

33 (a) The loss shall be:

34 (i) Carried over under this chapter to the same extent and in the same
35 manner as was provided under prior law for taxable years beginning on or
36 before December 31, 1989.

37 (ii) Carried back and carried over to the same extent and in the same
38 manner as provided under section 172 of the internal revenue code for taxable
39 years beginning from and after December 31, 1989.

40 (b) No carryover beyond the taxable year may be taken into account.

41 2. A capital loss for the prior taxable year or years, for purposes
42 of computing the decrease in tax for the prior taxable year or years under
43 subsection B of this section:

1 (a) The loss shall be carried back and carried over to the same extent
2 and in the same manner as is provided under section 1212 of the internal
3 revenue code.

4 (b) No carryover beyond the taxable year may be taken into account.

5 F. In computing Arizona taxable income for taxable years subsequent
6 to the current taxable year, the net operating loss or capital loss
7 determined in subsection E of this section shall be taken into account to the
8 same extent and in the same manner as a net operating loss or capital loss
9 sustained for prior taxable years.

10 Sec. 4. Section 43-1071, Arizona Revised Statutes, is amended to read:

11 43-1071. Credit for income taxes paid to other states

12 A. Subject to the following conditions, residents shall be allowed a
13 credit against the taxes imposed by this chapter for net income taxes imposed
14 by and paid to another state or country on income taxable under this chapter:

15 1. The credit shall be allowed only for taxes paid to the other state
16 or country on income that is derived from sources within that state or
17 country and that is taxable under its laws irrespective of the residence or
18 domicile of the recipient.

19 2. The credit shall not be allowed if the other state or country
20 allows residents of this state a credit against the taxes imposed by that
21 state or country for taxes paid or payable under this chapter.

22 3. The credit shall not exceed such proportion of the tax payable
23 under this chapter as the income subject to tax in the other state or country
24 and also taxable under this title bears to the taxpayer's entire income upon
25 which the tax is imposed by this chapter.

26 B. If any taxes paid to another state or country for which a taxpayer
27 has been allowed a credit under this section are at any time credited or
28 refunded to the taxpayer:

29 1. The taxpayer shall immediately report that fact to the department.

30 2. A tax equal to the credit allowed for the taxes credited or
31 refunded by the other state or country is due and payable from the taxpayer
32 upon notice and demand from the department.

33 3. Interest shall be added to and collected as a part of the tax at
34 the rate determined pursuant to section 42-1123 from the date the credit was
35 allowed under this chapter to the date of the notice and demand.

36 4. If the tax and interest are not paid within ten days from the date
37 of notice and demand, there shall be collected as a part of the tax interest
38 upon the unpaid amount of tax and interest at the rate of twelve per cent per
39 annum from the date of the notice and demand until the amount is paid.

40 C. The credit against the taxes imposed by this chapter for net income
41 taxes paid to another state or country shall not be allowed to any taxpayer
42 or any class of taxpayers if the allowances of the credit will result in any
43 invalid or illegal discrimination against another taxpayer or another class
44 of taxpayers.

~~D. A resident beneficiary of an estate or trust who is taxable on the income of the estate or trust under section 43-1344 shall, subject to the following conditions, be allowed a credit against the taxes imposed by this title on such income for net income taxes paid by the estate or trust to another state or country on such income subject to the following conditions:~~

~~1. Credit shall be allowed only for such proportion of the tax paid to the other state or country by the estate or trust as the income of the estate or trust which is taxable to the beneficiary under this title and also taxed to the estate or trust in the other state or country bears to the entire income of the estate or trust upon which the taxes paid to the other state or country were imposed.~~

~~2. The credit shall not exceed such proportion of the tax payable under this title as the income of the estate or trust which is taxable to the beneficiary under this title and also taxed to the estate or trust in the other state or country bears to the beneficiary's entire income upon which the tax is imposed by this title.~~

~~E. D. For taxable years beginning before January 1, 2002 and subject to the following conditions, a resident of this state, who is also considered to be a resident of another state under the laws of the other state, is allowed a credit against the taxes imposed by this title for net income taxes imposed by and paid to that state on income taxable under this title as follows:~~

~~1. The credit is allowed only if the other state taxes the income to the resident of this state and does not allow the taxpayer a credit against taxes imposed by that state on that income for taxes paid or payable on that income under this title.~~

~~2. The credit is allowed only for the proportion of the taxes paid to the other state as the income taxable under this title and also subject to tax in the other state bears to the entire income on which the taxes paid to the other state are imposed.~~

~~3. The credit may not exceed the proportion of the tax payable under this title as the income subject to tax in the other state and also taxable under this title bears to the entire income taxable under this title.~~

~~F. E. For purposes of this section, net income taxes imposed by another country shall include those taxes that qualify for a credit under sections 901 and 903 of the internal revenue code and the regulations thereunder.~~

~~Sec. 5. Section 43-1121, Arizona Revised Statutes, is amended to read: 43-1121. Additions to Arizona gross income; corporations~~

~~In computing Arizona taxable income for a corporation, the following amounts shall be added to Arizona gross income:~~

~~1. The amounts computed pursuant to section 43-1021, paragraphs 4-3 through 10-9 and 14-13.~~

1 2. The amount of dividend income received from corporations and
2 allowed as a deduction pursuant to sections 243, 244 and 245 of the internal
3 revenue code.

4 3. Taxes which are based on income paid to states, local governments
5 or foreign governments and which were deducted in computing federal taxable
6 income.

7 4. Expenses and interest relating to tax-exempt income on indebtedness
8 incurred or continued to purchase or carry obligations the interest on which
9 is wholly exempt from the tax imposed by this title. Financial institutions,
10 as defined in section 6-101, shall be governed by section 43-961, paragraph
11 2.

12 5. Commissions, rentals and other amounts paid or accrued to a
13 domestic international sales corporation controlled by the payor corporation
14 if the domestic international sales corporation is not required to report its
15 taxable income to this state because its income is not derived from or
16 attributable to sources within this state. If the domestic international
17 sales corporation is subject to article 4 of this chapter, the department
18 shall prescribe by rule the method of determining the portion of the
19 commissions, rentals and other amounts which are paid or accrued to the
20 controlled domestic international sales corporation and which shall be
21 deducted by the payor. "Control" for purposes of this paragraph means direct
22 or indirect ownership or control of fifty per cent or more of the voting
23 stock of the domestic international sales corporation by the payor
24 corporation.

25 6. Federal income tax refunds received during the taxable year to the
26 extent they were deducted in arriving at Arizona taxable income in a previous
27 year.

28 7. The amount of net operating loss taken pursuant to section 172 of
29 the internal revenue code.

30 8. The amount of exploration expenses determined pursuant to section
31 617 of the internal revenue code to the extent that they exceed seventy-five
32 thousand dollars and to the extent that the election is made to defer those
33 expenses not in excess of seventy-five thousand dollars.

34 9. Amortization of costs incurred to install pollution control devices
35 and deducted pursuant to the internal revenue code or the amount of deduction
36 for depreciation taken pursuant to the internal revenue code on pollution
37 control devices for which an election is made pursuant to section 43-1129.

38 10. The amount of depreciation or amortization of costs of child care
39 facilities deducted pursuant to section 167 or 188 of the internal revenue
40 code for which an election is made to amortize pursuant to section 43-1130.

41 11. Arizona state income tax refunds received, to the extent the amount
42 of the refunds is not already included in Arizona gross income, if a tax
43 benefit was derived by deduction of this amount in a prior year.

1 12. The amount paid as taxes on property in this state by a qualified
2 defense contractor with respect to which a credit is claimed under section
3 43-1166.

4 13. The loss of an insurance company that is exempt under section
5 43-1201 to the extent that it is included in computing Arizona gross income
6 on a consolidated return pursuant to section 43-947.

7 14. The amount by which the depreciation or amortization computed under
8 the internal revenue code with respect to property for which a credit was
9 taken under section 43-1169 exceeds the amount of depreciation or
10 amortization computed pursuant to the internal revenue code on the Arizona
11 adjusted basis of the property.

12 15. The amount by which the adjusted basis computed under the internal
13 revenue code with respect to property for which a credit was claimed under
14 section 43-1169 and which is sold or otherwise disposed of during the taxable
15 year exceeds the adjusted basis of the property computed under section
16 43-1169.

17 16. The amount by which the depreciation or amortization computed under
18 the internal revenue code with respect to property for which a credit was
19 taken under either section 43-1170 or 43-1170.01 exceeds the amount of
20 depreciation or amortization computed pursuant to the internal revenue code
21 on the Arizona adjusted basis of the property.

22 17. The amount by which the adjusted basis computed under the internal
23 revenue code with respect to property for which a credit was claimed under
24 either section 43-1170 or 43-1170.01 and which is sold or otherwise disposed
25 of during the taxable year exceeds the adjusted basis of the property
26 computed under section 43-1170 or 43-1170.01, as applicable.

27 18. The deduction referred to in section 1341(a)(4) of the internal
28 revenue code for restoration of a substantial amount held under a claim of
29 right.

30 19. The amount by which a capital loss carryover allowable pursuant to
31 section 1341(b)(5) of the internal revenue code exceeds the capital loss
32 carryover allowable pursuant to section 43-1130.01, subsection F.

33 20. Any amount deducted in computing Arizona taxable income as expenses
34 for installing solar stub outs or electric vehicle recharge outlets in this
35 state with respect to which a credit is claimed pursuant to section 43-1176.

36 21. Any wage expenses deducted pursuant to the internal revenue code
37 for which a credit is claimed under section 43-1175 and representing net
38 increases in qualified employment positions for employment of temporary
39 assistance for needy families recipients.

40 22. Any amount of expenses that were deducted pursuant to the internal
41 revenue code and for which a credit is claimed under section 43-1178.

42 23. Any amount deducted pursuant to section 170 of the internal revenue
43 code representing the contribution of a motor vehicle for which a credit is
44 claimed pursuant to section 43-1177.

1 24. Any amount deducted for conveying ownership or development rights
2 of property to an agricultural preservation district under section 48-5702
3 for which a credit is claimed under section 43-1180.

4 25. The amount of any deduction that is claimed in computing Arizona
5 gross income and that represents a donation of a school site for which a
6 credit is claimed under section 43-1181.

7 Sec. 6. Section 43-1127, Arizona Revised Statutes, is amended to read:
8 43-1127. Deferred exploration expenses

9 A. The amount of exploration expenses added to Arizona gross income
10 pursuant to section 43-1121, paragraph 8 may be subtracted on a ratable basis
11 as the units of produced ores or minerals discovered or explored by reason
12 of such expenditures are sold. An election made for any taxable year shall
13 be binding for such year.

14 B. If such property is sold, it shall be treated in the same manner
15 and on the same basis as property held for the production of income pursuant
16 to section 43-1021, paragraph 8- 7 or section 43-1022, paragraph 11.

17 Sec. 7. Section 43-1301, Arizona Revised Statutes, is amended to read:
18 43-1301. Definitions; estates and trusts

19 In this chapter, unless the context otherwise requires:

20 1. "ARIZONA GROSS INCOME" MEANS:

21 (a) OF A NONRESIDENT ESTATE OR TRUST, THE TAXABLE INCOME FROM SOURCES
22 WITHIN THIS STATE FOR THE TAXABLE YEAR, COMPUTED ACCORDING TO THE INTERNAL
23 REVENUE CODE.

24 ~~1. "Arizona gross income" of an estate or "trust" means its~~

25 (b) OF A RESIDENT ESTATE OR TRUST, THE taxable income for the taxable
26 year, computed according to the internal revenue code.

27 2. "Arizona taxable income" of an A RESIDENT OR NONRESIDENT estate or
28 trust means its Arizona gross income adjusted by the modifications specified
29 in article 3 of this chapter.

30 ~~3. "Person" and "taxpayer" mean fiduciary.~~

31 3. "NONRESIDENT ESTATE OR TRUST" MEANS AN ESTATE OR TRUST THAT IS NOT
32 A RESIDENT ESTATE OR TRUST.

33 4. "RESIDENT ESTATE" MEANS THE ESTATE OF A DECEDENT WHO WAS A RESIDENT
34 OF THIS STATE AT THE TIME OF DEATH.

35 5. "RESIDENT TRUST" MEANS A TRUST OF WHICH THE FIDUCIARY IS A RESIDENT
36 OF THIS STATE. IF A TRUST HAS MORE THAN ONE FIDUCIARY, THE TRUST IS A
37 RESIDENT TRUST IF AT LEAST ONE OF THE FIDUCIARIES IS A RESIDENT OF THIS
38 STATE. IF A CORPORATE FIDUCIARY ENGAGED IN INTERSTATE TRUST ADMINISTRATION
39 IS THE SOLE FIDUCIARY OF A TRUST, OR IS A COFIDUCIARY WITH A NONRESIDENT, THE
40 TRUST IS A RESIDENT TRUST ONLY IF THE CORPORATE FIDUCIARY CONDUCTS THE
41 ADMINISTRATION OF THE TRUST IN THIS STATE.

42 Sec. 8. Section 43-1311, Arizona Revised Statutes, is amended to read:
43 43-1311. Tax imposed on estates and trusts; rates

44 A. EXCEPT FOR TRUSTS THAT ARE TAXABLE AS PARTNERSHIPS OR CORPORATIONS
45 UNDER THE INTERNAL REVENUE CODE, the taxes imposed by this title upon

1 individuals apply to the income of estates or of any kind of property held
2 in trust. ~~, other than so-called "Massachusetts trusts", including:~~

3 ~~1. Income accumulated in trust for the benefit of unborn or~~
4 ~~unascertained persons or persons with contingent interests and income~~
5 ~~accumulated or held for future distribution under the terms of the will or~~
6 ~~trust.~~

7 ~~2. Income which is to be distributed currently by the fiduciary to the~~
8 ~~beneficiaries and income collected by a guardian of an infant which is to be~~
9 ~~held or distributed as the court may direct.~~

10 ~~3. Income received by estates of deceased persons during the period~~
11 ~~of administration or settlement of the estate.~~

12 ~~4. Income which, in the discretion of the fiduciary, may be either~~
13 ~~distributed to the beneficiaries or accumulated.~~

14 B. THE TAX RATES THAT ARE IMPOSED ON SINGLE INDIVIDUALS UNDER SECTION
15 43-1011 APPLY TO THE TAXABLE INCOME OF ESTATES AND TRUSTS.

16 Sec. 9. Repeal

17 Sections 43-1312 and 43-1313, Arizona Revised Statutes, are repealed.

18 Sec. 10. Section 43-1315, Arizona Revised Statutes, is amended to
19 read:

20 43-1315. Liability of beneficiaries for trust taxes

21 If for any reason the taxes imposed on income of a trust, ~~which is~~
22 ~~taxable to the trust because the fiduciary or beneficiary is a resident of~~
23 ~~this state,~~ are not paid when due and remain unpaid when such income is
24 distributable to the beneficiaries, or if the income is distributable to the
25 beneficiaries before the taxes are due, ~~if AND~~ the taxes are not paid when
26 due, such income shall be taxable to the beneficiaries when distributable to
27 them, except that in the case of nonresident beneficiaries such income shall
28 be taxable only to the extent it is derived from sources within this state.

29 Sec. 11. Section 43-1331, Arizona Revised Statutes, is amended to
30 read:

31 43-1331. Additions to Arizona gross income; estates and trusts

32 In computing Arizona taxable income OF AN ESTATE OR TRUST, the
33 following items THE ESTATE OR TRUST'S SHARE OF THE FIDUCIARY ADJUSTMENT shall
34 be added to Arizona gross income TO THE EXTENT THAT THE AMOUNT DETERMINED
35 PURSUANT TO SECTION 43-1333 INCREASES THE ESTATE OR TRUST'S ARIZONA GROSS
36 INCOME. :-

37 ~~1. Those items specified in section 43-1021, except that a trust~~
38 ~~established as a medical savings account pursuant to section 43-1028 shall~~
39 ~~not add the amount of interest income received on obligations of a state,~~
40 ~~territory or possession of the United States, or a political subdivision of~~
41 ~~a state, territory or possession, that is located outside of this state.~~

42 ~~2. The deduction for personal exemption pursuant to section 642(b) of~~
43 ~~the internal revenue code.~~

1 ~~3. The deduction for income for the taxable year which is required to~~
2 ~~be distributed currently as provided in sections 651 and 661 of the internal~~
3 ~~revenue code.~~

4 ~~4. The deduction for federal estate tax related to income in respect~~
5 ~~of decedents allowed by section 691 of the internal revenue code.~~

6 Sec. 12. Section 43-1332, Arizona Revised Statutes, is amended to
7 read:

8 43-1332. Subtractions from Arizona gross income; estates and
9 trusts

10 In computing Arizona taxable income OF AN ESTATE OR TRUST, the
11 following items shall be subtracted from Arizona gross income:

12 ~~1. Those items specified in section 43-1022.~~

13 ~~2. An exemption of:~~

14 ~~(a) One thousand dollars in the case of an estate.~~

15 ~~(b) One hundred dollars in the case of a trust. If the amount of tax~~
16 ~~otherwise due under this title after applying such exemption is less than one~~
17 ~~dollar the amount of the exemption shall be the amount of the taxable income~~
18 ~~of such trust. Such exemption shall not exceed two hundred dollars.~~

19 ~~3. Amounts currently distributable computed pursuant to section~~
20 ~~43-1341.~~

21 ~~4. Amounts properly paid or credited pursuant to section 43-1342.~~

22 ~~5. An amount which bears the same ratio to the Arizona estate tax~~
23 ~~attributable to the net value for estate tax purposes of all items described~~
24 ~~in section 691(a) of the internal revenue code as the value for estate tax~~
25 ~~purposes of the items of gross income or portions of those items in respect~~
26 ~~of which that person included the amount in gross income or the amount~~
27 ~~included in gross income, whichever is lower, bears to the value for estate~~
28 ~~tax purposes of all the items described in section 691(a) of the internal~~
29 ~~revenue code. For purposes of this paragraph, "estate tax" means the tax~~
30 ~~imposed on the estate of the decedent under title 42, chapter 4. The net~~
31 ~~value for estate tax purposes of all the items described in section 691(a)~~
32 ~~of the internal revenue code is the excess of the value for estate tax~~
33 ~~purposes of all items described in section 691(a) of the internal revenue~~
34 ~~code over the deductions from the gross estate in respect of claims which~~
35 ~~represent the deductions described in section 691(b) of the internal revenue~~
36 ~~code. The estate tax attributable to the net value is an amount equal to the~~
37 ~~excess of the estate tax over the estate tax computed without including the~~
38 ~~net value in the gross estate.~~

39 1. THE ESTATE OR TRUST'S SHARE OF THE FIDUCIARY ADJUSTMENT TO THE
40 EXTENT THAT THE AMOUNT DETERMINED PURSUANT TO SECTION 43-1333 DECREASES THE
41 ESTATE OR TRUST'S ARIZONA GROSS INCOME.

42 6. 2. In the case of a trust that is established as a medical savings
43 account pursuant to section 43-1028, income earned by the trust during the
44 taxable year to the extent the income is included in the trust's Arizona
45 gross income.

1 Sec. 13. Title 43, chapter 13, article 3, Arizona Revised Statutes,
2 is amended by adding section 43-1333, to read:

3 43-1333. Fiduciary adjustment; allocation of shares

4 A. THE FIDUCIARY ADJUSTMENT FOR A RESIDENT ESTATE OR TRUST SHALL BE
5 THE NET AMOUNT OF THE ADDITIONS AND SUBTRACTIONS REQUIRED BY SECTIONS 43-1021
6 AND 43-1022 INCLUDING THE ADDITION REQUIRED BY SECTION 43-1021, PARAGRAPH 1
7 OR THE SUBTRACTION REQUIRED BY SECTION 43-1022, PARAGRAPH 3 IF THE ESTATE OR
8 TRUST IS A BENEFICIARY OF ANOTHER ESTATE OR TRUST.

9 B. IN THE CASE OF A NONRESIDENT ESTATE OR TRUST, THE FIDUCIARY
10 ADJUSTMENT SHALL BE THE NET AMOUNT OF THE ADDITIONS AND SUBTRACTIONS REQUIRED
11 BY SECTIONS 43-1021 AND 43-1022 THAT ARE DERIVED FROM OR RELATED TO INCOME
12 FROM SOURCES WITHIN THIS STATE.

13 C. THE ESTATE OR TRUST AND ITS BENEFICIARIES SHALL APPORTION THE
14 FIDUCIARY ADJUSTMENT IN THE SAME PROPORTION AS THEIR RESPECTIVE SHARES OF
15 FEDERAL DISTRIBUTABLE NET INCOME OF THE ESTATE OR TRUST.

16 D. IF THE ESTATE OR TRUST HAS NO FEDERAL DISTRIBUTABLE NET INCOME FOR
17 THE TAXABLE YEAR, THE SHARE OF EACH BENEFICIARY IN THE FIDUCIARY ADJUSTMENT
18 SHALL BE IN PROPORTION TO THE BENEFICIARY'S SHARE OF THE ESTATE OR TRUST
19 INCOME FOR THE YEAR, UNDER LOCAL LAW OR TERMS OF THE INSTRUMENT, THAT IS
20 REQUIRED TO BE DISTRIBUTED CURRENTLY AND ANY OTHER AMOUNTS OF THE INCOME
21 DISTRIBUTED IN THE YEAR. ANY BALANCE OF THE FIDUCIARY ADJUSTMENT SHALL BE
22 ALLOCATED TO THE ESTATE OR TRUST.

23 E. IN THE CASE OF A NONRESIDENT BENEFICIARY OF AN ESTATE OR TRUST,
24 INCLUDING A NONRESIDENT ESTATE OR TRUST THAT IS A BENEFICIARY OF ANOTHER
25 ESTATE OR TRUST, THE ADDITION REQUIRED BY SECTION 43-1021, PARAGRAPH 1 OR THE
26 SUBTRACTION REQUIRED BY SECTION 43-1022, PARAGRAPH 3 SHALL BE LIMITED TO THAT
27 PORTION OF THE BENEFICIARY'S SHARE OF THE FIDUCIARY ADJUSTMENT THAT IS
28 DERIVED FROM OR RELATED TO INCOME FROM SOURCES WITHIN THIS STATE.

29 F. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A TRUST ESTABLISHED
30 AS A MEDICAL SAVINGS ACCOUNT TRUST PURSUANT TO SECTION 43-1028 SHALL NOT ADD
31 THE AMOUNT OF INTEREST INCOME RECEIVED ON OBLIGATIONS OF A STATE, TERRITORY
32 OR POSSESSION OF THE UNITED STATES, OR A POLITICAL SUBDIVISION OF A STATE,
33 TERRITORY OR POSSESSION OF THE UNITED STATES THAT IS LOCATED OUTSIDE OF THIS
34 STATE.

35 Sec. 14. Repeal

36 Title 43, chapter 13, article 4, Arizona Revised Statutes, is repealed.

37 Sec. 15. Section 43-1364, Arizona Revised Statutes, is amended to
38 read:

39 43-1364. Liability of fiduciary for nonpayment of estate or
40 trust taxes

41 Every fiduciary who knowingly pays in whole or in part any claim, other
42 than claims for taxes, expenses of administration, funeral expenses, expenses
43 of last illness and family allowance, against the person, estate or trust for
44 whom or for which he THE FIDUCIARY acts or who makes any distribution of the
45 assets of the person, estate, other than estates allowed by law to be set

1 aside to A surviving spouse or minor children, or trust, before he THE
2 FIDUCIARY satisfies and pays taxes, interest and penalties, except penalties
3 due from a decedent, which are imposed by this title on the person, estate
4 or trust for whom or for which he THE FIDUCIARY acts and which are known by
5 such fiduciary to constitute a claim against such person, estate or trust or
6 which are known by such fiduciary to constitute a lien or charge on or
7 against the assets of such person, estate or trust, is personally liable to
8 the state for the taxes, interest and penalties to the extent of such
9 payments and distributions.

10 Sec. 16. Title 43, chapter 13, article 5, Arizona Revised Statutes,
11 is amended by adding sections 43-1365 and 43-1366, to read:

12 43-1365. Request for prompt assessment

13 IN THE CASE OF INCOME RECEIVED OR ACCRUED DURING THE LIFETIME OF A
14 DECEDENT, OR BY THE DECEDENT'S ESTATE DURING THE PERIOD OF ADMINISTRATION,
15 THE DEPARTMENT SHALL MAIL NOTICES PROPOSING TO ASSESS THE TAX AND SHALL
16 COMMENCE ANY PROCEEDING IN COURT WITHOUT ASSESSMENT FOR THE COLLECTION OF THE
17 TAX WITHIN EIGHTEEN MONTHS AFTER THE FIDUCIARY OF THE ESTATE OR ANY OTHER
18 PERSON WHO IS LIABLE FOR THE TAX OR ANY PORTION OF THE TAX FILES A WRITTEN
19 REQUEST AFTER THE RETURN IS FILED. AFTER FILING THE REQUEST, A FIDUCIARY MAY
20 CONSENT IN WRITING TO WAIVE THE LIMITATION UNDER THIS SECTION.

21 43-1366. Notice of fiduciary relationship

22 ON GIVING NOTICE TO THE DEPARTMENT, ANY PERSON ACTING IN A FIDUCIARY
23 CAPACITY SHALL ASSUME THE DUTIES, RIGHTS AND PRIVILEGES OF A TAXPAYER WITH
24 RESPECT TO ANY TAX IMPOSED BY THIS TITLE. A PERSON ASSUMES THESE FIDUCIARY
25 DUTIES UNTIL THE PERSON GIVES NOTICE TO THE DEPARTMENT THAT THE FIDUCIARY
26 CAPACITY IS TERMINATED.

27 Sec. 17. Section 43-1381, Arizona Revised Statutes, is amended to
28 read:

29 43-1381. Credit for taxes paid to other state or country

30 A. If an estate or trust is a resident of this state and also a
31 resident of another state or country, the estate or trust is allowed a credit
32 against the taxes imposed by this title for net income taxes imposed by and
33 paid to the other state or country, subject to the following conditions:

34 1. The credit is allowed only for the proportion of the taxes paid to
35 the other state or country that the income taxable under this title and also
36 subject to tax in the other state or country bears to the entire income on
37 which the taxes paid to the other state or country are imposed.

38 2. The credit shall not exceed the proportion of the tax payable under
39 this title that the income subject to tax in the other state or country and
40 also taxable under this title bears to the entire income that is taxable
41 under this title.

42 3. THE CREDIT SHALL NOT BE ALLOWED FOR TAXES PAID TO THE OTHER STATE
43 OR COUNTRY ON INCOME FROM SOURCES WITHIN THIS STATE.

44 B. IF ANY TAXES PAID TO ANOTHER STATE OR COUNTRY FOR WHICH A TAXPAYER
45 HAS BEEN ALLOWED A CREDIT UNDER THIS SECTION ARE AT ANY TIME CREDITED OR

1 REFUNDED TO THE TAXPAYER, THE TAXPAYER SHALL IMMEDIATELY REPORT THIS FACT TO
2 THE DEPARTMENT.

3 C. A TAX EQUAL TO THE CREDIT ALLOWED FOR THE TAXES CREDITED OR
4 REFUNDED BY THE OTHER STATE OR COUNTRY IS DUE AND PAYABLE FROM THE TAXPAYER
5 ON NOTICE AND DEMAND FROM THE DEPARTMENT.

6 B. D. For the purposes of this section, an estate or trust is
7 considered to be a resident of the state or country that is legally entitled
8 to tax the income of the estate or trust regardless of whether the income is
9 derived from sources in that state or country.

10 C. E. For purposes of this section, the term "net income taxes"
11 imposed by another country shall include those taxes that qualify for a
12 credit under sections 901 and 903 of the internal revenue code and the
13 regulations thereunder.

14 Sec. 18. Effective date

15 This act is effective for tax years beginning from and after December
16 31, 2002.


APPROVED BY THE GOVERNOR MAY 2, 2002.


FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2002.

Passed the House April 22, 2002.

by the following vote: 54 Ayes,

1 Nays, 5 Not Voting



Speaker of the House


 Chief Clerk of

Passed the Senate February 11, 2002.

by the following vote: 26 Ayes,

1 Nays, 3 Not Voting


President

Charmian Billington
Secretary

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of _____

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this **day of** , 20 ,

at _____ o'clock _____ M.

Secretary of State

S.B. 1043

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 30, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

Randee Grant
President of the Senate
Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 12:48 o'clock P M.

Sandra Chan
Secretary to the Governor

Approved this 2 day of

May, 2002,

at 10:55 o'clock P M.

Jane Fleetwell
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2002

at 4:23 o'clock P M.

Robert Doyle
Secretary of State